

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

CASSANDRA COOK,)
Plaintiff,) CIVIL ACTION
vs.) FILE NO. _____
PUBlix SUPER MARKETS, INC.,)
Defendant.)

PETITION FOR REMOVAL

TO: The Honorable Judges of the United States District Court for the Northern District of Georgia, Gainesville Division:

COMES NOW, Defendant Publix Super Markets, Inc., "Publix" hereinafter, by and through its undersigned counsel, and hereby files this Petition for Removal and respectfully shows this Court the following:

1. A civil action was filed and is now pending in the State Court of Cobb County, State of Georgia, designated as Civil Action File No. 20-A-2128.
2. The Summons and Complaint for Damages in that action were filed in the State Court of Cobb County on July 3, 2020, and were first received by Publix by

service through Publix's registered agent on February 9, 2021. Thus, Publix timely files this Petition for Removal.

3. Publix files herewith a copy of all process, pleading, and orders including the Summons and Complaint in this action, pursuant to 28 USC §§ 1446 and 1446(b), which are attached hereto as:

- Exhibit A, Summons;
- Exhibit B, Complaint;
- Exhibit C, Plaintiff's First Interrogatories to Defendant;
- Exhibit D, Plaintiff's First Requests for Production of Documents and Notice to Produce Documents to Defendant;
- Exhibit E, Plaintiff's First Requests for Admissions to Defendant;
- Exhibit F, Publix's Answer and Defenses to Plaintiff's Complaint; and
- Exhibit G, Publix's Jury Trial Demand;
- Exhibit H, Plaintiff's Pre-Suit Demand letter. *Publix has omitted the medical records produced by Plaintiff's counsel as demand exhibits due to the sensitive personal/confidential medical information contained therein. Publix will produce said medical records attached to the demand letter via separate production if requested by the Court.*
- Exhibit I, Publix's Notice of Removal.

4. Publix is now, was at the commencement of this suit, and at all times since been a Domestic Limited Liability Company organized and existing under the laws of Florida and having its principal place of business located at 3300 Publix Corporate Parkway, Lakeland, Florida 33811.

5. Plaintiff is a citizen of the State of Georgia.

6. The action described above is a civil action with a claim of which this Court has original jurisdiction, and it is one that may be removed to this Court by Publix pursuant to the provisions of 28 USC §§ 1332 and 1441 et seq., in that there is complete diversity among the parties and Publix is not a resident of the State of Georgia, the Parties are not residents of the same State, and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

When deciding whether the amount in controversy has been satisfied, the District Court can use its judicial experience and common sense in determining whether a case satisfies the amount in controversy. Roe v. Michelin North America, Inc., 613 F. 3d. 1058, 1064 (11th Cir. 2010); *see also Carr v. Halloway*, No. 5:09-CV-327, 2010 WL 3937407 (M.D. Ga. Oct. 1, 2010) (granting motion for reconsideration in light of *Roe v. Michelin N. Am., Inc.* and concluding under Roe standard amount in controversy was satisfied based on allegations in complaint); *see also Dye v. Amdocs Development Centre India, LLP*, No. 1:18-cv-02122, 2020 WL 5215182 (N.D. Ga.

Aug. 31, 2020) (finding amount in controversy satisfied after medical records submitted with the plaintiff's pre-suit demand demonstrated the plaintiff's recommended surgery would increase the damages in excess of the required amount in controversy).

In Ms. Cook's settlement demand dated November 5, 2019, she demands payment of \$75,000.00 to resolve her claims as they existed at that time. [Exhibit H, p. 4]. Ms. Cook itemized her damages in the demand as totaling \$19,277.79. [Exhibit H, p. 4]. However, no itemization for lost wages was included in this accounting despite her demand and medical records, which were submitted with her demand, showing she missed work after the accident. *Id.* at p. 2. The demand further contends that Ms. Cook contends will "aggressively prosecute this case with an eye towards obtaining a verdict against your insured in excess of her demand." [Exhibit H, p. 4].

Subsequently, Ms. Cassandra Cook filed the action sub judice, alleging that she fell and suffered severe and permanent injuries. [Exhibit B, p. 4]. Further, Ms. Cook contends she will "... incur **expenses in the future**, in an amount to be proven at trial." [Exhibit B, p. 5, *emphasis added*]. According to her Complaint, Ms. Cook seeks the following damages:

"... all compensatory, special, economic, consequential, general and all other damages under Georgia law, including but not limited to:

- a) Personal injuries;
- b) Past, present and future pain and suffering;

- c) Disability;
- d) Mental anguish;
- e) Loss of capacity for the enjoyment of life;
- f) Incidental expenses;
- g) Past and **future medical expenses**;
- h) Permanent injuries; and
- i) Consequential damages to be proven at trial.”

[Exhibit B, p. 8, *emphasis added*].

Thus, it is undisputed that Ms. Cook’s November 5, 2019 demand alleged a claim valued at \$75,000. She later filed suit claiming new, additional and future medical expenses beyond those serving as the basis for the initial demand. Accordingly, it is clear the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

7. Publix has attached hereto a copy of Publix’s Notice of Removal in the State Court of Cobb County, Georgia. [Exhibit I].

8. This action is currently pending in the State Court of Cobb County, Georgia, which is within the jurisdiction of the Northern District of Georgia, Gainesville Division. 28 U.S.C.A. § 1446(a).

WHEREFORE Publix prays the above action now pending before the State Court of Cobb County, Georgia be removed to this Court.

This 11th day of March, 2021.

Respectfully submitted,

COPELAND, STAIR, KINGMA &
LOVELL, LLP

By: /s/ Broderick W. Harrell
BRODERICK W. HARRELL
State Bar No. 101104
MELISSA C. GREENE
State Bar No.: 580723

191 Peachtree Street NE, Suite 3600
Atlanta, Georgia 30303-1740
Phone: (404) 522-8220
Fax: (404) 523-234
bharrell@cskl.law
mgreene@cskl.law

*Attorneys for Publix Super
Markets, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of PETITION FOR REMOVAL upon all parties to this matter by statutory electronic service to counsel of record as follows:

Tricia Solomon, Esq.
The Solomon Firm, LLC
2964 Peachtree Road, Suite 610
Atlanta, GA 30305
tricia@thesolomonfirm.com

This 11th day of March, 2021.

Respectfully submitted,

COPELAND, STAIR, KINGMA &
LOVELL, LLP

By: /s/ Broderick W. Harrell
BRODERICK W. HARRELL
State Bar No. 101104
MELISSA C. GREENE
State Bar No.: 580723

191 Peachtree Street NE, Suite 3600
Atlanta, Georgia 30303-1740
Phone: (404) 522-8220
Fax: (404) 523-234
bharrell@cskl.law
mgreene@cskl.law

Attorneys for Publix Super Markets, Inc.